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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,393	03/15/2004	John B. Geagan III	40003892-0006-004	1679
8791 7590 03/14/2008 BLAKELY SOKOLOFF TAYLOR & ZAFMAN 1279 OAKMEAD PARKWAY SUNNYVALE, CA 94085-4040				
EXAMINER				
JAIN, RAJ K				
ART UNIT		PAPER NUMBER		
2616				
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03/14/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/801,393

Applicant(s)

GEAGAN ET AL.

Examiner

RAJ K. JAIN

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 10-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 10-12 and 16-20 is/are rejected.
- 7) ☒ Claim(s) 13-15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4, 19 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Harrison et al (USP 6,249,914 B1).

Regarding claims 1 and 19, Harrison discloses a method, comprising seaming together two or more data streams (Figs. 1 & 2, col 4 lines 31-39, col 5 lines 47-53, primary and associated data streams are combined to form a single data stream), each made up of a number of packets (col 4 lines 39-50 the data streams may be formed from audio and/or video packets), received from a content source across 10, 16 (Fig. 2) one or more computer networks using an unreliable media transmission protocol at a proxy 404 (Fig. 8; col 11 lines 50-54, the cached data streams are selectively rendered prior to transmission to consumer, rendered data can be a *combination* of audio and video data to form a single data stream see col 4 lines 14-17) disposed between the content source 54 (Fig. 8) and one or more content consumers 224, 226, 228 (Fig. 8, col 12 lines 10-23, the graphical displays represent consumers which receive the rendered data from the proxy server 404) so as to provide one or more output data

streams to the one or more content consumers 224, 226 and 228 that include fewer missing packets than any individual one of the data streams being received at the proxy from the content source (Fig. 8; the proxy server 404 caches incoming data streams and filters the streams for content and classification to appropriately store the streams prior to rendering and delivery, thus the rendered final data stream would contain fewer lost packets than any individual stream transmitted to the consumer, col 13 lines 3-35.).

Regarding claims 2 and 20, Harrison discloses seaming comprises including packets from at least one of the data streams received from the content source in the output data streams (Fig. 2, data stream 12 from content source 10 is input into sequencer 14 for combining).

Regarding claims 4, Harrison discloses at least one of the content consumers comprises a plug-in for a Web browser (Fig. 2, source 16 may be a digital source to a network link see col 5 lines 5-9).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison et al (USP 6,249,914 B1) in view of Carmel et al (USP 6,389,473 B1).

Harrison fails to disclose RTP use.

Carmel discloses RTP use (col 2 lines 1-15). RTP provides end-to-end network transport functions suitable for applications transmitting in real-time data, such as audio, video or simulation data over multicast or unicast network services. Thus it would have been obvious at the time the invention was made to incorporate the teachings of Carmel within Harrison so as to allow real-time transmission of audio, video or simulation data as desired.

Claims 10-12 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison et al (USP 6,249,914 B1) in view of Sartain et al (USP 6,169,747 B1).

Regarding claim(s) 10, Harrison discloses seaming together a recording of streaming content downloaded over one or more occasions, from a content source (Fig 2, col 4 lines 31-39, col 5 lines 47-53, primary and associated data streams are combined to form a single data stream from content sources 10 and 16 and combined by the sequencer 14).

Harrison fails to disclose downloading of data in response to an indication that data loss has occurred during playbacks from the content source.

Sartain discloses downloading of data in response to an indication that data loss has occurred during playbacks from the content source (Fig. 5, col 1 lines 20-27, col 2 lines 3-10, an input buffer 111 is monitored to maintain constant data rate with no overflow or underflow from the incoming data stream). Maintaining the input buffer of incoming data streams allows for a smooth playback of streaming data without distortion.

Thus it would have been obvious at the time the invention was made to incorporate the teachings of Sartain within Harrison so as to improve playback of streaming data.

Regarding claim 11, Harrison discloses the downloads occur over multiple connections between the content source and a proxy disposed between the content source and one or more content consumers (Fig. 8, downloading occurs from the content source to the proxy over multiple connections 36, 58, 60).

Regarding claim 12, Harrison discloses the proxy seams together data streams received from the content source across the multiple connections before storing a resultant seamed stream to a computer readable medium (Fig. 8, col 11 lines 43-53).

Regarding claim 16, Harrison discloses at least one of the occasions corresponds to a time other than during or due to a user request for the streaming content (data is streamed by direct broadcast with no user request, col 4 line 47-50).

Regarding claim 17, Harrison discloses wherein the at least one of the occasions corresponds to a prefetching operation (non-interactive delivery and storage col 4 lines 39-43).

Regarding claim 18, Harrison discloses wherein the at least one of the occasions corresponds to time of reduced network congestion (unused portion of bandwidth is used for congestion reduction, col 2 lines 34-38).

Allowable Subject Matter

Claims 13-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-4 and 10-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAJ K. JAIN whose telephone number is (571)272-3145. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Raj K. Jain

/Raj K. Jain/

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March 14, 2008